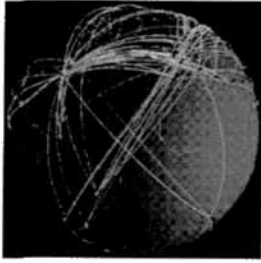


Michigan Internet & Telecommunications Alliance



Connecting Michigan to the World

Honorable Kenneth Horn
N-1198 House Office Building
P.O. Box 30014
Lansing, MI 48933

March 22, 2011

Re: MITA's comments regarding the H-1 Substitute to HB 4314

Chairman Horn,

Thank you for the opportunity to provide input regarding the H-1 Substitute to HB 4314. MITA appreciates the fact that the substitute resolves some of MITA's concerns and narrows the issues. MITA welcomes the fact that the substitute now clearly specifies that current wholesale Quality of Service rules will remain in force, that the substitute satisfactorily addresses the issue regarding the removal of Commission authority over interconnected voice over Internet protocol service, that the substitute partially restores Commission authority to oversee wholesale interactions between carriers, and that the substitute restores the requirement that calls to adjacent exchanges be classified as local calls.

However, while it appears that the substitute is heading in the right direction, MITA continues to have certain fundamental concerns. MITA's member companies and other competitive telecommunications providers largely cater to and serve the individualized telecommunications needs of Michigan's small and medium sized businesses. These businesses will ultimately bear the negative effects of any decline in telecom competition.

MITA continues to be concerned that changes to the MTA will impact the rules that govern how carriers currently interact on the wholesale level. It has been stated throughout the legislative hearings that there is no intent or desire to advocate changes to existing wholesale oversight and regulation. However, the Substitute Bill (i) continues to contain amendments that would change existing wholesale rules, (ii) adds new amendments that would change existing wholesale rules, and (iii) does not add amendments that would better protect competition on the wholesale level.

Specifically, MITA's remaining concerns are:

1) HB 4314 contains amendments that would make it easier for incumbents to transfer incumbent assets to affiliates and thereby strip such assets of their existing associated incumbent obligations. Rather than opposing these amendments, MITA proposed specific language that would specifically prohibit the feared conduct if such conduct was the intent behind such amendments. The substitute bill contains a new provision in Section 313(4). Presumably, this provision was inserted to address MITA's concern. It is our opinion that Section 313(4) is too general and therefore does not provide the needed safeguard.

2) The Wholesale Quality of Service rules provide an essential framework for overseeing appropriate interactions between the carriers. The importance of these rules escalates if other broad authority of the Commission is diminished. Accordingly, Section 205(2) needs to be strengthened in the substitute. The current provision whereby the rules would automatically expire after 3 years if new rules aren't promulgated should be removed. We saw last December that the promulgation of replacement telecom rules can be difficult due to circumstances beyond the Commission's control. For maximum investment to be made in this state, the Competitive Telecom industry needs regulatory certainty. One cannot be expected to invest millions of dollars in this state with the uncertainty created by the 3 year expiration provision.

3) The substitute continues to delete Section 205(b) which grants broad authority to the Commission. MITA strongly believes that any reduction in Commission's wholesale authority is unwarranted. The fact that Section 205(b) is partially duplicative of Section 601 does not justify the deletion of Section 205(b) in its entirety. The non-duplicate provisions of Section 205(b) should be moved to Section 601.

4) The substitute raises a new issue. The substitute deletes the second sentence of Section 353a. This sentence currently places the burden of persuasion in interconnection arbitrations on the provider that wishes to change the baseline agreement. Accordingly, this provision promotes stability. The better place to change Section 353a is the first sentence. The first sentence identifies numerous interconnection agreements that can be selected as the baseline agreement, that is, the starting point for negotiations. But Section 353a does not specify which of the two parties has the right to make the selection among the various possible choices. Section 353a should be modified to specify either (i) that the party with the lesser resources has the right to choose the baseline agreement or (ii) that the parties' current interconnection agreement should serve as the baseline agreement.

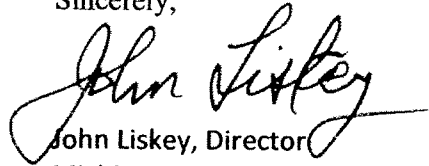
5) The substitute does not address MITA's proposal to preserve Michigan's copper infrastructure. This infrastructure is in place and offers incredible capacity and potential. Federal law requires the incumbents to lease full access to copper infrastructure to other providers. However, incumbents are not required to lease access to fiber optics to the same extent. As a result of technological advances, upgrading the electronics attached to copper is increasingly becoming the high-tech, low cost solution that gives small or medium businesses a big business solution at affordable prices. Therefore, it is imperative that incumbents not abandon or scrap any of its existing copper infrastructure.

6) The substitute continues to delete Section 304(14). This subsection currently provides an important option to smaller providers to avoid the expense of the preparation of a cost study. This efficient option and current right of competitive providers should be retained.

7) MITA continues to have concerns about the elimination of the protections in Section 502.

MITA looks forward to further discussions with you and other members of the committee to make this important legislation something that will encourage competition in the telecommunications and Internet markets.

Sincerely,

A handwritten signature in black ink, appearing to read "John Liskey", with a stylized, flowing script.

John Liskey, Director
Michigan Internet and
Telecommunications Alliance

cc: House and Senate Energy & Technology Committee members

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